

**ORIGINAL**

**OFFICIAL FILE**

**STATE OF ILLINOIS**

**ILLINOIS COMMERCE COMMISSION**

**ILLINOIS COMMERCE COMMISSION**

**005 MAR 20 P 12:52**

**CHIEF CLERK**

<b>Illinois Bell Telephone Company</b>	)	
	)	98-0252
Application for Review of Alternative Regulation Plan	)	(consol.)
	)	
<b>Illinois Bell Telephone Company</b>	)	
	)	98-0335 ON
Petition to Rebalance Illinois Bell Telephone Company's	)	(consol.) REMAND
Carrier Access and Network Access Line Rates	)	
	)	
<b>Citizens Utility Board and the People of the State</b>	)	
<b>of Illinois</b>	)	
<b>vs.</b>	)	00-0764
<b>Illinois Bell Telephone Co., d/b/a Ameritech, Illinois</b>	)	(consol.)
	)	
Petition for reduction in rates and other relief.	)	

**GOVERNMENT AND CONSUMER INTERVENORS'  
BRIEF ON EXCEPTIONS AND EXCEPTIONS  
TO THE ALJ'S PROPOSED ORDER**

The People of the State of Illinois, by Lisa Madigan, Attorney General; the City of Chicago, by Mara Georges, Corporation Counsel; and the Citizens Utility Board, through its attorney (Government and Consumer Intervenor - GCI), hereby file their Brief on Exceptions and Exceptions to the Administrative Law Judge's Proposed Order in the above-captioned docket.

- I. THE COMMISSION SHOULD ENTER AN ORDER ON REMAND IDENTIFYING THE RECORD EVIDENCE THAT SUPPORTS THE CONTINUATION OF THE \$3 BILLION INVESTMENT REQUIREMENT AND UPHOLDING THE OBLIGATION.**

GCI urge the Commission to reject the ALJ's Proposed Order, which deletes the \$600 million network spending obligation included by the Commission in its December

30, 2002 Order and February 11, 2005 Amendatory Order. Instead, the Commission should enter an Order on Remand identifying the record evidence that supports the continuation of the \$3 billion investment requirement and upholding the obligation as specified below. The Commission must not permit IBT to manipulate the appeal process to extricate itself from the \$3 billion investment commitment it agreed to during the Alternative Regulation Review proceedings.

In support of this position, GCI adopt and incorporate by reference the attached GCI Petition for Interlocutory Review, filed with the Commission on March 16, 2005, which urges the Commission to reject the ALJ's February 23, 2005 ruling striking the investment obligation from the Commission's December 30, 2005 Order.<sup>1</sup>

## **II. THE COMMISSION SHOULD ADOPT GCI'S PROPOSED LANGUAGE.**

GCI urge the Commission to incorporate the following changes to the Proposed Order:

### **Exception No. 1**

In accordance with the arguments presented in GCI's Petition for Interlocutory Review, incorporated by reference above, the first paragraph at the top of page 4 should be stricken and replaced with the following language:

**The ALJ issued a ruling addressing the appropriate action, on remand, with respect to the network spending obligation, that struck the \$3 billion network**

---

<sup>1</sup> For the convenience of the Commission and to avoid repetition, GCI attach their Petition for Interlocutory Review, which addresses the underlying problems with the Proposed Order's treatment of the investment requirement. IBT filed a response to GCI's Petition for Interlocutory Review on March 23, 2005 arguing that the Petition was moot because the ALJ had issued a Proposed Order when the Petition was filed, and addressing the legal and factual substance of the Petition.

investment obligation from the Commission's December 30, 2002 Order. See ALJ Ruling, February 23, 2005. GCI filed a Petition for Interlocutory review of that ruling and IBT responded. The Commission has determined that the ALJ's February 23, 2005 Ruling unreasonably and unnecessarily restricts the Commission's authority on remand by (1) ignoring key portions of the Court's decision, (2) misinterpreting the relevant caselaw, and (3) erroneously stating the bases of the investment requirement to be solely service quality problems, when in fact the investment requirement was based on several aspects of the alternative regulation statute.

The ALJ Ruling concluded that the Commission's "sole task on this remand is to prepare and enter an amendatory order that reflects the reversal of the spending requirement that was set out in the Alt Reg. Review Order for this docket." ALJ Ruling at 26-27. This conclusion is not mandated by the Court and improperly limits the Commission's authority on remand.

In City of Alton v. Alton Water Co., 25 Ill.2d 112, 115 (1962), the Court said that the "question in each case is whether additional hearings or evidence are necessary to enable the Commission to comply with the rulings of this court[.]" 25 Ill.2d at 115. The Court's opinion in this case held that the Commission has the authority to impose an investment requirement, but that the "specific dollar amounts actually imposed" were not supported by the record. 352 Ill.App.3d at 642. The Court did not hold that no investment requirement was permitted but instead repeatedly described the deficiency in the Commission's Order as a failure to cite evidence to support the "specific dollar amount" or the "specific capital

spending requirement,” or “the \$600 million per-year capital spending requirement.” It said that it would “expect evidence justifying” a multibillion dollar spending obligation. Id. Clearly, the Court’s opinion authorizes the Commission to issue a new order affirming its decision to impose a capital spending requirement, provided the Commission identifies the particular evidence justifying the specific amount ordered.

In reviewing the record, we note that the lack of evidence and discussion of the amount of the investment requirement should not be surprising given that IBT did not contest the \$600 million per year investment figure in its pre-filed testimony, in cross-examination, or in its briefs. If the Commission were precluded from *considering the evidence now that IBT has reversed course and objects to* continuing the amount of the requirement, IBT would be rewarded for allowing an issue to appear uncontested at trial, thereby limiting the evidentiary record on it, and then later arguing that there was insufficient evidence to support a position it had apparently accepted.

The Staff agreed that the scope of the Commission’s authority on remand allows it to “accept additional evidence, reevaluate the evidence already presented, or simply reverse its original determination” to implement an Appellate Court’s ruling. Staff Response to GCI Petition for Interlocutory Review, para. 18. The Commission finds that it has substantial discretion on remand to modify its orders based on the existing record or to reopen the record for additional evidence, provided the Commission’s actions are consistent with the holding of the Court. For example, considering evidence to justify an investment amount is consistent with the

Court's statements that the Commission has the authority to impose an investment requirement and that it expects evidence to support a specific dollar amount. If the Court had found that the Commission lacked authority to impose an investment requirement, however, it would be inconsistent to consider such evidence.

The Hartigan case, cited by both IBT and Staff<sup>2</sup> in their briefs on remand, confirms the scope of the Commission's authority to reconsider existing evidence or take additional evidence when an order is remanded. Hartigan provides:

Under the Public Utilities Act, a court reviewing a Commission order has three options: the court may affirm the Commission's order, it may reverse the order, or it may remand the cause to the Commission to receive new or additional evidence. The reviewing court does not have the power to direct the Commission to take specific action. If the evidence does not support the Commission's order, the court is limited to setting aside the order as against the manifest weight of the evidence or remanding for additional evidence. When the Commission's order is set aside or remanded, the Commission may accept additional evidence, reevaluate the evidence already presented, or simply reverse its original determination. A revised rate order may then again be subject to judicial review to ascertain whether the Commission's new conclusions are supported by sufficient evidence."

117 Ill.2d at 142-143 (emphasis added) (internal citations omitted). The Hartigan holding is the bedrock of appellate law in this area, and clearly states that the Commission has the power to determine the evidence it needs to comply with its statutory rate-setting obligations. It is also fully consistent with basic administrative law. See Am. Jur. 2d, Administrative Law, § 576 (2004) ("When a reviewing court has determined that there was reversible error in an administrative decision and the cause is remanded without restrictions to the administrative body, that tribunal is vested with discretion to decide whether to conduct a reconsideration merely or a full rehearing.")

---

<sup>2</sup> See IBT Initial Brief on Remand at page 7, footnote 1; Staff Initial Brief at 5-7.

The ALJ Ruling would incorrectly limit our discretion on remand and is inconsistent with the Hartigan case. The ALJ Ruling would unnecessarily and improperly limit the Commission's discretion on remand in this case, and potentially in other cases which are remanded with instructions to enter an order "consistent with" the court's opinion. The effort in the ALJ Ruling to parse the language of Hartigan to limit the options available to the Commission on remand is unjustified by the text and is inconsistent with the basic structure of administrative law. See ALJ Ruling at 22-24; Am. Jur.2d, Administrative Law, § 576.

The ALJ Ruling deprives the Commission of even the opportunity to consider whether a capital spending requirement is necessary for IBT's plan to comply with section 13-506.1 by reading more restrictions into the Court's opinion than exist. A reviewing court is not a finder of fact, and cannot direct the Commission to reach a specified factual result on remand or preclude further inquiry. In Citizens Utility Board v. Illinois Commerce Commission (Centel), 276 Ill.App.3d 730 (1<sup>st</sup> Dist. 1995) the court said: "Setting utility rates is a legislative rather than a judicial function. In the ratemaking scheme, the Commission and not the court is the fact-finding body. ... This court lacks authority to delve into the record and make a finding of fact in order to support a ruling of the Commission." 276 Ill.App.3d at 734-735 (internal quotes and citations omitted).

The principle that the Commission, not the court, must resolve questions of fact is well established. Only the Commission has the discretion to change an Order on remand. In N-Ren Corp. v. Illinois Commerce Commission, 98 Ill. App. 3d 1076, 1082 (Ill. 1981), citing Bhd. of R.R.Trainmen v. Elgin, Joliet & E. Ry. Co., 374 Ill. 60

(Ill. 1940), the Court stated that the reviewing court could not rewrite sections of an order, but only examines the Commission's order as an "integrated entity." When various parts of an Order are interdependent, the Commission, not the reviewing court, determines how to incorporate the court's remand in a final order consistent with the Court's opinion. Id.

This interdependency is well illustrated in the Commission's Order in this docket, where the many factors and concerns found in section 13-506.1 were extensively discussed, both independently and as they related to IBT's investment in the network. See also, e.g., Business and Professional People for the Public Interest v. Illinois Commerce Commission, 146 Ill.2d 175, 196 (1991) ("In the ratemaking scheme, the Commission and not the court is the fact-finding body."); Illinois Bell Telephone Co. v. Illinois Commerce Commission, 283 Ill.App.3d 188, 210 (1996) (the court's role is "to determine what the Commission was required to do but not how the Commission was to do it."). On remand, the Commission must review the factual deficiency identified by the Court. Only the Commission has the power to determine whether the existing record supports the investment requirement and can cure the deficiency identified by the Court, or whether new evidence must be taken.

Clearly a court may give specific directions, such as to consider particular evidence on remand. However, in this case, the Court declined to include specific instructions or to limit the Commission on remand. It simply said that the case was remanded for an order consistent with its opinion. The Commission has the full discretion allowed under section 10-201(e)(vi) of the Public Utilities Act, 220 ILCS 5/10-201(e)(vi), and the Hartigan case to reconsider the size of the spending

obligation by reviewing the evidence concerning the investment requirement or taking additional evidence. This result conforms to the premise that: "In the ratemaking scheme, the Commission and not the court is the fact-finding body."

Business and Professional People for the Public Interest v. Illinois Commerce Commission, 146 Ill.2d at 196 (1991).

In cases where the court specifies the procedure on remand, the Commission's discretion is limited. See 220 ILCS 5/13-201(e)(v)(court may reverse or remand in whole or in part and may state questions on remand or provide "such other instructions as may be proper" on remand); Illinois Bell Telephone Co. v. Illinois Commerce Commission, 283 Ill.App.3d 188, 210-211 (2d Dist. 1996)(directions on remand to determine specific factors in connection with section 9-230 analysis)(IBT Initial Br. at 6); Illinois Bell Telephone Co. v. Illinois Commerce Commission, 203 Ill.App.3d 443 (2d Dist. 1990)(directions on remand to take additional evidence on the allocation of common overhead costs)(IBT Initial Br. at 7). However, the remand order *in this case* was more general, providing remand for an order "consistent with this opinion." This remand is limited only by the holding of the Appellate Court that the Commission has the authority to impose an investment requirement, that there was evidence justifying the need for an investment requirement, and that the Order did not cite sufficient evidence to support the *amount* of the investment requirement. Whether the investment requirement should be reset and in what amount are matters that are within the Commission's expertise and statutory charge.



**Given the Commission's original conclusion that an investment requirement advances the goals of section 13-506.1, the Commission finds that the Court's opinion requires that an order on remand include evidence specifically justifying the amount of the investment requirement.**

**Exception No. 2**

In addition, the first full paragraph on page 5 of the Proposed Order, entitled "2. Network Spending, " should be stricken and replaced with the following language:

**In its decision in this case, the Court held that (1) the Commission has the authority to impose the investment requirement, but that (2) there was insufficient evidence to support the specific amount of the investment requirement.**

**In rejecting IBT's argument that the Commission lacked the authority to adopt the investment requirement, the Court said that IBT "continues to ignore the independent statutory authority that the Commission has been granted by section 13-506.1 of the [Public Utilities] Act" to impose a capital spending requirement. Slip Op. at 16, 352 Ill.App.3d at 641. The Court recognized that the investment requirement addressed several aspects of the alternative regulation statute, including authorizing a network modernization plan, facilitating the broad dissemination of technical improvements to all classes of ratepayers, and requiring that the plan will maintain the quality and availability of telecommunications services. Slip op. at 17, 352 Ill.App.3d at 641, citing 220 ILCS 5/13-506.1(a), 13-506.1(a)(4) and 13-506.1(b)(6). The Court concluded: "We find that the capital spending requirement the Commission included in the Alt Reg Plan is a network**

modernization plan aimed at these concerns. It was a decision taken within the authority granted to the Commission by the Act.” Slip op. at 17, 352 Ill.App.3d at 641.

In addressing the specific investment requirement adopted by the Commission, the Court first found that there was evidence to support the need for the investment requirement, including the finding that service quality failures were the result of insufficient network investment. Slip op. at 18, 352 Ill.App.3d at 642. However, the Court reversed the specific dollar amount for lack of sufficient evidence, stating that the Commission “did not hear any evidence as to how this specific level of funding or any level of funding, for that matter, was the appropriate amount going forward or how this amount would achieve the statutory goals for alternative regulation.” Slip op. at 18, 352 Ill.App.3d at 642.

The Court said: “If the Commission is going to impose multiyear, multibillion dollar spending obligations, we would expect evidence justifying that decision. Even under the deferential standard of review on such issues, *this specific* capital spending requirement must be reversed.” Slip Op. at 19, 352 Ill.App.3d at 642 (emphasis added). It remanded the Order to the Commission “with directions to enter an order consistent with this opinion.” Id.

In accord with the Court’s reversal of the spending requirement, the Commission deems it proper to 1) highlight the evidence in the above-captioned proceeding that supports the continuation of the \$3 billion investment requirement and 2) uphold the obligation. In fact, the 98-0252, 98-0335, 00-0764 (Consolidated)

record is replete with evidence that supports the continuation of the \$3 billion network investment obligation.

IBT did not oppose the amount of the capital spending requirement until its Application for Rehearing, filed close to five years after the case was opened. In its direct testimony, IBT witness Theresa Larkin, whose testimony was later adopted by IBT witness Thomas O'Brien, argued that a specific investment requirement was unnecessary because, in its Merger Order, "the Commission already specified the manner in which this commitment should be carried forward under alternative regulation." IBT Ex. 3.0 at 19. IBT went on to note that the real issue with respect to the \$3 billion investment was whether the Commission would include the investment made by a subsidiary, Ameritech Advanced Data Services ("AADS"), in determining IBT's compliance with the \$3 billion commitment. Id.

The company cannot be allowed, on the one hand, to testify that it has no objection to the inclusion of a \$3 billion investment obligation in any modified alternative regulation plan during the evidentiary phase of the proceeding and then, on the other hand, claim on remand that Staff and Intervenors were somehow remiss in failing to supply evidence to support that figure. The Company's stated position on the topic was that it had no objection to a continuation of the \$3 billion investment obligation in any modified alternative regulatory plan approved in this docket.

The Company retained in the entirety the \$3 billion investment in its original proposal in this docket, as shown in IBT's Exhibit 3.0, Schedule 1 (attached to Ms.

Larkin's Direct testimony), which detailed the Company's proposed changes to the alternative regulation plan:

**D. Infrastructure Development**

Upon approval of the plan by the Illinois Commerce Commission, Illinois Bell will commit to at least \$3 billion in expenditures in Illinois for growth and modernization of the telecommunications network over the first five year period of the plan.

IBT Ex. 3.0, Schedule 1 (Larkin) at 7. Company witness Thomas O'Brien, who adopted Ms. Larkin's testimony, made clear during cross-examination that the Company did not oppose extending the \$3 billion investment in the new, modified alternative regulatory plan. Tr. 714-717.

Likewise, Staff witness Judith Marshall also testified she understood the \$3 billion investment requirement was an "*agreed upon commitment*" that should be continued under any alternative regulation plan adopted or modified in this docket. ICC Ex. 4.0 at 13; ICC Ex. 18.0 at 12. Again, the evidentiary debate that ensued with respect to infrastructure investment was not the size of the investment but whether IBT affiliate ADDS's investment should be included within the \$3 billion figure. On that point, Ms. Marshall testified that Ameritech affiliate expenditures should not be considered to satisfy, again, what she called "*this agreed upon commitment.*" ICC Ex. 18.0 at 12-13 (emphasis added).

The Commission is free to consider evidence currently in the record or to reopen the record to take additional evidence relevant to the issues outstanding on remand, i.e., the amount of the investment commitment, to insure that the Alt Reg Plan continues to serve the purposes of section 13-506.1. Under the City of Alton standard, 115, 182 N.E. 2d 665, 667 (1962); accord City of Chicago v. Ill. Commerce

Comm'n, 4 Ill. 2d 554, 123 N.E. 2d 500 (1954), the Commission may find that no additional hearings are necessary to both comply with the Court's order *and* uphold the \$3 billion investment requirement. Among the relevant evidence are:

- (1) IBT's acquiescence to the \$3 billion investment in the renewed alternative regulation plan;
- (2) Staff witness Marshall's support for the continuation of the \$3 billion commitment;
- (3) IBT's historical and budgeted investment figures, which show that that IBT had invested \$3.7 billion over the five years of the plan. IBT Ex. 1.1 at 54. The Commission's December 30, 2002 Order documented the Company's annual investment spending levels for the 1999-2001 (budgeted) time period. Capital investments in Illinois were as follows: \$787 million in 1999, \$918 million in 2000 and \$1.043 billion (estimated budget) in 2001. (Order at 205). These figures, combined with more recent figures which show a disturbing decrease in investment in 2003 (see GCI's Petition for Administrative Review and Exhibit A to the Petition for Interlocutory Review), justify a requirement that the Company, at a minimum, maintain telephone plant investment at a similar level for the foreseeable future; and
- (4) IBT reported its annual depreciation expense as \$600 million, on average. The depreciation expense represents the diminution of value of existing plant and is included in rates to provide funds to replace worn out plant. This equals the amount of the annual investment requirement. See, e.g. IBT Ex. 1.1 at 54; City of Chicago Ex. 1.0 at 38; GCI Brief on Remand at 15-16. The \$600 million investment requirement is intended to maintain the telecommunications infrastructure in Illinois by insuring that IBT replaces out-dated or worn out plant.

Moreover, the December 30, 2002 Order involves an alternative regulatory plan that reflects the many interdependent factors and concerns found in Section 13-506.1. GCI Initial Brief on Remand at 10-12.<sup>3</sup> Notwithstanding IBT's reference

---

<sup>3</sup> The Order 's many references to IBT's network investment demonstrate what a critical component of the plan investment is. The Commission discussed IBT's investment in the following sections of the Order:

to several Proposed Orders that failed to include an investment requirement, it is the Commission's orders, not the ALJ's proposed orders, which reflect the policy and conclusions of the Commission. In adopting an extension of the Alt Reg. Plan, the Commission considered the role of the investment requirement in the Alt Reg. Plan as a whole, including all of the requirements and goals of alternative regulation, and expressly found that investment was necessary for the plan to satisfy the public interest. Order of December 30, 2002, at pages 192—193, as amended on February 14, 2003. Neither the Court nor the Commission can simply sever the investment requirement from the Order without undermining the Commission's

---

**II. Ten Point Review – Commission Specific Issues:**

(c) Whether the adopted monitoring and reporting requirements should be retained or adjusted. Page 14-17.

(d) The extent to which Illinois Bell has modernized its network and additional modernization plans for the near term. Page 17-20

**III. The Statutory Criteria and Goals:**

**B. Did the Plan Respond to Changes In Technology And The Structure Of The Telecommunications Industry That Are, In Fact Occurring.** Authority: Section 13-506.1(b)(3) and Alt Reg. Order. Page 43-45

**C. Does the Plan Continue to Constitute A More Appropriate Form Of Regulation Based On The Commission's Overall Consideration of Section 13-506.1 (a), and the Section 13-103 Policy Goals.**

Premise No. 2 - The Alternative Form of Regulation Encourages Innovation in Telecommunications Services. Authority: Section 13-506.1(a)(2) and Alt Reg. Order at 181. Page 47-49.

Premise No. 4 - The Alternative Form of Regulation Facilitates The Broad Dissemination of Technical Improvements To All Classes of Ratepayers. Authority: Section 13-506.1 (a) (4); the Alt Reg Order at 182. Page 50-52.

Premise No. 5 - The Alternative Regulation Plan Enhances the Economic Development of the State. The Development of and Prudent Investment in Advanced Telecommunications Networks That Foster Economic Development Of the State Should Be Encouraged. (Section 13-103(f)). Authority: Section 13-506.1 (a)(5); Section 13-103 (f); Alt Reg Order at 183. Page 53-54.

**F. Has the Plan maintained the Quality and Availability of Telecommunications Services.** Authority: Sections 13- 506.1(b)(6); 13-103(c) and Alt Reg Order. Page 62 – 73, 70.

**G. Is the Plan in The Public Interest.** Authority: Sections 13.506.1(b)(1); 13.506.1(b)(4) and Alt Reg Order. Page 73-77, 76.

**VII. Service Quality – Going Forward G. Other Service Quality Issues, 2. Investment.** Page 191-192

**VIII. Overview and Final Plan Modifications,** Page 195-198.

conclusion that continuation of the investment requirement was necessary for the plan to be in the public interest. See N-Ren Corporation v. Illinois Commerce Commission, 98 Ill.App.3d 1076, 1083 (2d Dist. 1981)(Commission must review unity of Order on remand in incorporating court's holding).

For all of these reasons, the Commission concludes that the record evidence supports the continuation of the \$3 billion investment requirement.

### Exception No. 3

Finally, Finding (6) in Section VI, page 6, which declares the Commission's February 11, 2003 Order null and void, should be stricken.

### III. CONCLUSION

Wherefore, for the foregoing reasons, Governmental and Consumer Intervenors respectfully request that the Commission modify the ALJ's Proposed Order in accordance with the language specified above.

Respectfully submitted,

THE CITY OF CHICAGO  
Mara S. Georges  
Corporation Counsel

By: Jack A. Pace / jr  
Jack A. Pace  
Senior Counsel  
Regulatory and Aviation Litigation Div.  
30 N. LaSalle St., Suite 900  
Chicago, Illinois 60602  
(312) 744-6997

THE PEOPLE OF THE  
STATE OF ILLINOIS  
Lisa Madigan, Attorney General

By: Susan L. Satter / js  
Janice A. Dale  
Susan L. Satter  
Assistant Attorneys General  
100 West Randolph Street  
Chicago, Illinois 60601  
(312) 814-1104

CITIZENS UTILITY BOARD

By: Karen L. Lusson/j  
Karen L. Lusson  
Attorney for Citizens Utility Board  
349 S. Kensington Av.  
LaGrange, Illinois 60525  
(708) 579-1529

March 25, 2005



**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

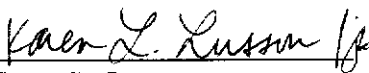
Illinois Bell Telephone Company	)	
	)	98-0252
Application for review of alternative	)	
regulation plan.	)	
	)	
Illinois Bell Telephone Company	)	
	)	98-0335
Petition to rebalance Illinois Bell	)	
Telephone Company's Carrier Access	)	
and Network Access Line Rates	)	
	)	
Citizens Utility Board and	)	(cons.)
The People of the State of Illinois	)	
vs.	)	
Illinois Bell Telephone Company	)	
	)	00-0764
Verified Complaint for a Reduction in	)	
Illinois Bell	)	
Telephone Company's Rates	)	
and Other Relief.	)	

**NOTICE OF FILING**

To: See Attached Service List

**PLEASE TAKE NOTICE** that on this date, March 25, 2005, we have submitted for filing the Government and Consumer Intervenors' Brief on Exceptions to the ALJ's Proposed Order in the above-captioned matter on behalf of the Citizens Utility Board, to the Chief Clerk of the Illinois Commerce Commission, 527 East Capitol Avenue, Springfield, Illinois, 62701.

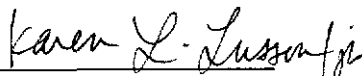
Dated: March 25, 2005

  
Karen L. Lusson  
Attorney for Citizens Utility Board

Karen L. Lusson  
Attorney for Citizens Utility Board  
349 S. Kensington Ave.  
LaGrange, IL 60525  
[klusson@aol.com](mailto:klusson@aol.com)

**CERTIFICATE OF SERVICE**

I, Karen L. Lusson, Attorney for the Citizens Utility Board, hereby certify that I have served the above-mentioned document upon all active parties of record by electronic mail, overnight delivery service (United Parcel Service), or United States Mail, first class postage, prepaid.

A handwritten signature in cursive script, reading "Karen L. Lusson".

Karen L. Lusson  
Attorney for Citizens Utility Board

**Service List Docket Nos. 98-0252/98-0335/00-0764(cons.)**

Karl B Anderson  
Illinois Bell Telephone Company  
225 W. Randolph, Floor 25D  
Chicago IL 60601

Ann Bloss  
Cook County State's Attorney's office  
Suite 700  
69 West Washington Street  
Chicago IL 60602

Sean R Brady  
Illinois Commerce Commission  
160 N. LaSalle St., Ste. C-800  
Chicago IL 60601-3104

Terri L Brieske  
Atty. for McLeodUSA Telecommunications Services, Inc.  
Schiff Hardin & Waite  
6600 Sears Tower  
Chicago IL 60606

Melia Carter  
Covad Communications Company  
Covad Communications Company  
200 South Wacker, 31st Floor  
Chicago IL 60606

Torsten Clausen  
Hearing Examiners' Assistant  
Illinois Commerce Commission  
527 E. Capital Ave.  
Springfield IL 62701

William J Cobb III  
Covad Communications Company  
100 Congress Avenue, Ste. 2000  
Austin TX 78701

Janice A Dale  
Assistant Attorney General  
Public Utilities Bureau  
100 W. Randolph St., 11th Fl.  
Chicago IL 60601

William A Davis II  
AT&T Communications of Illinois, Inc.  
222 W. Adams St., Ste. 1500  
Chicago IL 60601

Matt C Deering  
Atty. for Intervenors  
Meyer Capel, a Professional Corporation  
306 W. Church St., PO Box 6750  
Champaign IL 61826-6750

Joseph E Donovan  
Atty. for Intervenors  
O'Keefe, Ashenden, Lyons & Ward  
30 N. LaSalle St., Ste. 4100  
Chicago IL 60602

Leijuana Doss  
Assistant State's Attorney  
Cook County State's Attorney's Office  
69 W. Washington, Ste. 700  
Chicago IL 60602

John F Dunn  
AT&T Communications of Illinois, Inc.  
222 W. Adams St., Ste. 1500  
Chicago IL 60606

Patrick N Giordano  
Atty. for NEXTLINK Illinois, Inc.  
Giordano & Associates, Ltd.  
333 N. Michigan Ave., Ste. 2800  
Chicago IL 60601

Allan Goldenberg  
Cook County State's Attorney's Office  
69 W. Washington, Ste. 700  
Chicago IL 60602

John Gomoll  
AT&T  
222 W. Adams - Fl.15  
Chicago IL 60606

Michael Guerra  
Atty. for Verizon North/South Inc.  
Sonnenschein Nath & Rosenthal  
8000 Sears Tower  
Chicago IL 60606

William A Haas  
Vice President & Deputy General Counsel  
McLeodUSA Technology Park  
6400 C St., S.W.  
PO Box 3177  
Cedar Rapids IA 52406-3177

Cheryl Hamill  
AT&T Communications of Illinois, Inc.  
222 W. Adams St., Ste. 1500  
Chicago IL 60606

Matthew L Harvey  
Illinois Commerce Commission  
160 N. LaSalle St., Ste. C-800  
Chicago IL 60601-3104

Richard E Heatter  
MGC Communications, Inc.  
171 Sully's Trail, Ste. 202  
Pittsford NY 14534

John Hester  
Illinois Commerce Commission  
Ste. C-800  
160 North LaSalle  
Chicago IL 60601-3104

Kent F Heyman  
Vice President & General Counsel  
MGC Communications, Inc.  
171 Sully's Trail, Ste. 202  
Pittsford NY 14534

Lincoln V Janus  
Illinois Bell Telephone Company  
Floor 29B  
225 W. Randolph St.  
Chicago IL 60601

Henry T Kelly  
Atty. for Intervenor  
O'Keefe, Ashenden, Lyons & Ward  
30 N. LaSalle St., Ste. 4100  
Chicago IL 60602

Robert Kelter  
Citizens Utility Board  
208 S. LaSalle St., Ste. 1760  
Chicago IL 60604

Mark A Kerber  
Counsel  
Illinois Bell Telephone Company  
225 W. Randolph St., 25D  
Chicago IL 60606

Thomas Koutsky  
Vice President  
Z-Tel Communications, Inc.  
1200 19th St., N.W., Ste. 500  
Washington DC 20036

Clyde Kurlander  
Atty. for NEXTLINK Illinois, Inc.  
Three First National Plaza, Ste. 2375  
Chicago IL 60602

Brett D Leopold  
Sprint  
6450 Sprint Parkway, Mailstop: KSOPHN0212-2A461  
Overland Park KS 66251

Karen L Lusson  
Attorney for Citizens Utility Board  
349 S. Kensington Ave.  
LaGrange, IL 60525

Owen E MacBride  
Atty. for McLeodUSA Telecommunications Services, Inc.  
Schiff Hardin & Waite  
6600 Sears Tower  
Chicago IL 60606

Calvin Manshio  
Atty. for Cable Television & Communications Association  
Manshio & Wallace  
4753 N. Broadway Ave., Ste. 732  
Chicago IL 60640

Daniel Meldazis  
Focal Communications Corporation  
200 N. LaSalle St.  
Chicago IL 60601

Dennis K Muncy  
Atty. for Intervenor  
Meyer Capel, a Professional Corporation  
306 W. Church St.  
PO Box 6750  
Champaign IL 61826-6750

Joseph D Murphy  
Atty. for Intervenor  
Meyer Capel, a Professional Corporation  
306 W. Church St., PO Box 6750  
Champaign IL 61826-6750

Julie Musselman  
Illinois Commerce Commission  
527 E. Capitol Ave.  
Springfield IL 62701

Peter Q Nyce Jr.  
General Attorney  
Department of the Army  
901 N. Stuart St.  
Arlington VA 22203-1837

Jack A Pace  
Assistant Corporation Counsel  
City of Chicago  
30 N. LaSalle St., Suite 900  
Chicago IL 60602-2580

Mark N Pera  
Assistant State's Attorney  
Cook County State's Attorney's Office  
69 W. Washington, Ste. 700  
Chicago IL 60602

Carol P Pomponio  
Manager, Regulatory Affairs  
XO Illinois, Inc.  
Concourse Level  
303 E. Wacker  
Chicago IL 60601

Mary Pat Regan  
Vice President - Regulatory  
555 Cook St., Fl. 1E  
Springfield IL 62721

John E Rooney  
Atty. for Verizon North/South Inc.  
Sonnenschein Nath & Rosenthal  
8000 Sears Tower  
Chicago IL 60606

Thomas Rowland  
Atty. for XO Illinois, Inc.  
Rowland & Moore  
77 W. Wacker, Ste. 4600  
Chicago IL 60601

Susan L Satter  
Illinois Attorney General's Office  
11th Floor  
100 W. Randolph  
Chicago IL 60601

Susan Shay  
GTE North/South Incorporated  
1312 E. Empire St.  
Bloomington IL 61701

Greg Smith  
GTE North/South Incorporated  
Mail Code: ILLARA  
1312 E. Empire St.  
Bloomington IL 61701

Marie Spicuzza  
Assistant State's Attorney  
Cook County State's Attorney's Office  
69 W. Washington, Ste. 700  
Chicago IL 60602

Tom Stanton  
Illinois Commerce Commission  
160 N. LaSalle St., Ste. C-800  
Chicago IL 60601

Genio Staranczak  
Co-Case Manager  
Illinois Commerce Commission  
527 E. Capitol Ave.  
Springfield IL 62701

Louise A Sunderland  
Illinois Bell Telephone Company  
225 W. Randolph, hQ-25D  
Chicago IL 60601

Darrell Townsley  
State Regulatory & Governmental Affairs  
MCI Telecommunications Corporation  
205 N. Michigan Ave., Ste. 3700  
Chicago IL 60601

Ron Walters  
Regional Vice President  
Z-Tel Communications, Inc.  
601 S. Harbour Island Blvd., Ste. 220  
Tampa FL 33602

John F Ward Jr.  
Atty. for IPTA  
O'Keefe, Ashenden, Lyons & Ward  
30 N. LaSalle St., Ste. 4100  
Chicago IL 60602

Michael W Ward  
Atty. for Data Net Systems, L.L.C.  
Michael W. Ward, P.C.  
1608 Barkley Blvd.  
Buffalo Grove IL 60089

Nancy Wells  
AT&T  
620 S. 5th  
Springfield IL 62703